

§ 2.77

in accordance with § 2.33(f), § 2.44(d), or § 2.45(d).

(j) *Multiple-class application.* For the requirements of a multiple-class application, see § 2.86.

§ 2.77 Amendments between notice of allowance and statement of use.

(a) The only amendments that can be entered in an application between the issuance of the notice of allowance and the submission of a statement of use are:

(1) The deletion of specified goods or services from the identification of goods/services;

(2) The deletion of a basis in a multiple-basis application; and

(3) A change of attorney or change of address.

(b) Other amendments may be entered during this period only with the express permission of the Director, after consideration on petition under § 2.146. If the Director determines that the amendment requires review by the examining attorney, the petition will be denied and the amendment may be resubmitted with the statement of use in order for the applicant to preserve its right to review.

[73 FR 67770, Nov. 17, 2008, as amended at 80 FR 2311, Jan. 16, 2015]

EFFECTIVE DATE NOTE: At 80 FR 33185, June 11, 2015, § 2.77 was amended by revising paragraphs (a) introductory text and (a)(1), effective July 11, 2015. For the convenience of the user, the revised text is set forth as follows:

§ 2.77 Amendments between notice of allowance and statement of use.

(a) The only amendments that may be entered in an application between the issuance of the notice of allowance and the submission of a statement of use are:

(1) The deletion of specified goods or services, or the entire description of the nature of the collective membership organization, from the identification;

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PUBLICATION AND POST PUBLICATION

§ 2.80 Publication for opposition.

If, on examination or reexamination of an application for registration on the Principal Register, it appears that the applicant is entitled to have his mark registered, the mark will be published in the *Official Gazette* for opposi-

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tion. The mark will also be published in the case of an application to be placed in interference or concurrent use proceedings, if otherwise registrable.

[41 FR 758, Jan. 5, 1976]

§ 2.81 Post publication.

(a) Except in an application under section 1(b) of the Act for which no amendment to allege use under § 2.76 has been submitted and accepted, if no opposition is filed within the time permitted or all oppositions filed are dismissed, and if no interference is declared and no concurrent use proceeding is instituted, the application will be prepared for issuance of the certificate of registration as provided in § 2.151.

(b) In an application under section 1(b) of the Act for which no amendment to allege use under § 2.76 has been submitted and accepted, if no opposition is filed within the time permitted or all oppositions filed are dismissed, and if no interference is declared, a notice of allowance will issue. Thereafter, the applicant must submit a statement of use as provided in § 2.88.

[54 FR 37594, Sept. 11, 1989, as amended at 73 FR 67770, Nov. 17, 2008; 80 FR 2311, Jan. 16, 2015]

§ 2.82 Marks on Supplemental Register published only upon registration.

In the case of an application for registration on the Supplemental Register the mark will not be published for opposition but if it appears, after examination or reexamination, that the applicant is entitled to have the mark registered, a certificate of registration will issue as provided in § 2.151. The mark will be published in the *Official Gazette* when registered.

[54 FR 37594, Sept. 11, 1989]

§ 2.83 Conflicting marks.

(a) Whenever an application is made for registration of a mark which so resembles another mark or marks pending registration as to be likely to cause confusion or mistake or to deceive, the mark with the earliest effective filing date will be published in the *Official Gazette* for opposition if eligible for the

Principal Register, or issued a certificate of registration if eligible for the Supplemental Register.

(b) In situations in which conflicting applications have the same effective filing date, the application with the earliest date of execution will be published in the *Official Gazette* for opposition or issued on the Supplemental Register.

(c) Action on the conflicting application which is not published in the *Official Gazette* for opposition or not issued on the Supplemental Register will be suspended by the Examiner of Trademarks until the published or issued application is registered or abandoned.

[37 FR 2880, Feb. 9, 1972, as amended at 54 FR 37594, Sept. 11, 1989]

§ 2.84 Jurisdiction over published applications.

(a) The trademark examining attorney may exercise jurisdiction over an application up to the date the mark is published in the *Official Gazette*. After publication of an application under section 1(a), 44 or 66(a) of the Act, the trademark examining attorney may, with the permission of the Director, exercise jurisdiction over the application. After publication of an application under section 1(b) of the Act, the trademark examining attorney may exercise jurisdiction over the application after the issuance of the notice of allowance under section 13(b)(2) of the Act. After publication, and prior to issuance of a notice of allowance in an application under section 1(b), the trademark examining attorney may, with the permission of the Director, exercise jurisdiction over the application.

(b) After publication, but before the certificate of registration is issued in an application under section 1(a), 44, or 66(a) of the Act, or before the notice of allowance is issued in an application under section 1(b) of the Act, an application that is not the subject of an *inter partes* proceeding before the Trademark Trial and Appeal Board may be amended if the amendment meets the requirements of §§ 2.71, 2.72, and 2.74. Otherwise, an amendment to such an application may be submitted only upon petition to the Director to restore jurisdiction over the application to the examining attorney for con-

sideration of the amendment and further examination. The amendment of an application that is the subject of an *inter partes* proceeding before the Trademark Trial and Appeal Board is governed by § 2.133.

[68 FR 55765, Sept. 26, 2003, as amended at 73 FR 67770, Nov. 17, 2008; 80 FR 2311, Jan. 16, 2015]

CLASSIFICATION

§ 2.85 Classification schedules.

(a) *International classification system.* Section 6.1 of this chapter sets forth the international system of classification for goods and services, which applies for all statutory purposes to:

(1) Applications filed in the Office on or after September 1, 1973, and resulting registrations; and

(2) Registrations resulting from applications filed on or before August 31, 1973, that have been amended to adopt international classification pursuant to § 2.85(e)(3).

(b) *Prior United States classification system.* Section 6.2 of this chapter sets forth the prior United States system of classification for goods and services, which applies for all statutory purposes to registrations resulting from applications filed on or before August 31, 1973, unless:

(1) The registration has been amended to adopt international classification pursuant to § 2.85(e)(3); or

(2) The registration was issued under a classification system prior to that set forth in § 6.2.

(c) *Certification marks and collective membership marks.* Sections 6.3 and 6.4 specify the system of classification which applies to certification marks and collective membership marks in applications based on sections 1 and 44 of the Act, and to registrations resulting from applications based on sections 1 and 44. These sections do not apply to applications under section 66(a) or to registered extensions of protection.

(d) *Section 66(a) applications and registered extensions of protection.* In an application under section 66(a) of the Act or registered extension of protection, the classification cannot be changed from the classification assigned by the